

United States Postal Service

§ 952.12

record by facsimile or by electronic mail with the Recorder.

EFFECTIVE DATE NOTE: At 81 FR 40192, June 21, 2016, §952.9 was revised, effective July 21, 2016. For the convenience of the user, the revised text is set forth as follows:

§ 952.9 Filing; docketing and serving documents.

(a) Unless the presiding officer permits otherwise, all documents must be filed using the electronic filing system. Documents submitted using the electronic filing system are considered filed as of the date/time (Eastern Time) reflected in the system. Documents mailed to the Recorder are considered filed on the date mailed as evidenced by a United States Postal Service postmark. Filings by any other means are considered filed upon receipt by the Recorder of a complete copy of the filing during normal business hours. Discovery need not be filed except as may be sought to be included in the record, or as may be ordered by the presiding officer.

(b) Documents shall be dated and state the docket number and title of the proceeding. Any pleading or other document required by order of the presiding officer to be filed by a specified date must be received in the electronic filing system or by the Recorder on or before such date. If both parties are participating in the electronic filing system, separate service upon the opposing party is not required. Otherwise, documents shall be served personally or by mail on the opposing party, noting on the document filed, or on the transmitting letter, that a copy has been so furnished.

§ 952.10 Answer.

(a) The answer shall contain a concise statement admitting, denying, or explaining each of the allegations set forth in the complaint.

(b) Any facts alleged in the complaint which are not denied or are expressly admitted in the answer may be considered as proved, and no further evidence regarding these facts need be adduced at the hearing.

(c) The answer shall be signed personally by an individual Respondent, or in the case of a partnership by one of the partners, or, in the case of a corporation or association, by an officer thereof.

(d) The answer shall set forth Respondent's address, electronic mail address, and telephone number or the name, address, electronic mail address, and telephone number of an attorney representing Respondent.

(e) The answer shall affirmatively state whether the Respondent will appear in person or by counsel at the hearing.

(f) In lieu of appearing at the hearing in person or by counsel, Respondent may request that the matter be submitted for determination pursuant to §952.17(b)(10).

§ 952.11 Default.

(a) If Respondent fails to file an answer within the time specified in the notice of docketing and answer, Respondent may be deemed in default, and to have waived hearing and further procedural steps. The Judicial Officer may thereafter issue orders and/or assess civil penalties without further notice.

(b) If Respondent files an answer but fails to appear at the hearing, Respondent may, unless timely indications to the contrary are received, be deemed to have abandoned the intention to present a defense to the charges of the complaint, and the Judicial Officer, without further notice to Respondent, may issue the orders and/or assess civil penalties sought in the complaint.

(c) If Respondent or Complainant fails to respond to or comply with an order of the presiding officer, the party may be held in default, and absent good cause shown, the party may be deemed to have abandoned the intention to present a defense, or to prosecute the complaint, and the presiding officer or Judicial Officer, without further notice to the offending party, may, as appropriate, dismiss the complaint or issue the orders and/or assess civil penalties sought in the complaint.

§ 952.12 Amendment of pleadings.

(a) Amendments shall be filed with the Recorder.

(b) By consent of the parties, a pleading may be amended at any time. Also, a party may move to amend a pleading at any time prior to the close of the hearing and, provided that the amendment is reasonably within the scope of the proceeding initiated by the complaint, the presiding officer rule on the motion as he or she deems to be fair and equitable to the parties.

(c) When issues not raised by the pleadings but reasonably within the

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scope of the proceedings initiated by the complaint are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendments as may be necessary to conform the pleadings to the evidence and to raise such issues may be allowed at any time upon the motion of any party.

(d) If a party objects to the introduction of evidence at the hearing on the ground that it is not within the issues raised by the pleadings, but fails to satisfy the presiding officer that an amendment of the pleadings would prejudice him or her on the merits, the presiding officer may allow the pleadings to be amended and may grant a continuance to enable the objecting party to rebut the evidence presented.

(e) The presiding officer may, upon reasonable notice and upon such terms as are just, permit service of a supplemental pleading setting forth transactions, occurrences, or events which have occurred since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

§ 952.13 Continuances and extensions.

Continuances and extensions will not be granted by the presiding officer except for good cause shown.

§ 952.14 Hearings.

Hearings are held at 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078, or other locations designated by the presiding officer. Time, date, and location for the hearing shall be set by the presiding officer in his or her sole discretion.

§ 952.15 Change of place of hearings.

(a) A party may file a request that a hearing be held to receive evidence in his or her behalf at a place other than that designated in § 952.14. The party shall support the request with a statement outlining:

- (1) The evidence to be offered in such place;
- (2) The names and addresses of the witnesses who will testify; and,
- (3) The reasons why such evidence cannot be produced at Arlington, VA.

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(b) The presiding officer shall give consideration to the convenience and necessity of the parties and witnesses and the relevance of the evidence to be offered.

§ 952.16 Appearances.

(a) Respondent may appear and be heard in person or by attorney. A Notice of Appearance must be filed by any attorney representing Respondent.

(b) An attorney may practice before the Postal Service in accordance with applicable rules issued by the Judicial Officer. See 39 CFR Part 951.

(c) When Respondent is represented by an attorney, all pleadings and other papers subsequent to the complaint shall be mailed to the attorney.

(d) Withdrawal by any attorney representing a party must be preceded by a motion to withdraw stating the reasons therefore, and shall be granted in the discretion of the presiding officer. If a successor attorney is not appointed at the same time, withdrawing counsel shall provide adequate contact information for Respondent.

(e) Parties must promptly file a notice of change of attorney.

§ 952.17 Presiding officers.

(a) The presiding officer at any hearing shall be an Administrative Law Judge qualified in accordance with law or the Judicial Officer (39 U.S.C. 204). The Chief Administrative Law Judge shall assign cases. The Judicial Officer may, for good cause shown, preside at the hearing if an Administrative Law Judge is unavailable.

(b) The presiding officer shall have authority to:

- (1) Administer oaths and affirmations;
- (2) Examine witnesses;
- (3) Rule upon offers of proof, admissibility of evidence, and matters of procedure;
- (4) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;
- (5) Maintain discipline and decorum and exclude from the hearing any person acting in an inappropriate manner;
- (6) Require the filing of briefs or memoranda of law on any matter upon which he or she is required to rule;